

DAILY BULLETIN

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U.S. SUPREME COURT ENDS DEATH PENALTY FOR JUVENILES

Divided court overturns sentences in 19 states

By Susan Ellis

Washington File Staff Writer

Washington -- A closely divided Supreme Court ruled March 1 that the death penalty cannot be imposed on youthful murderers who were not yet 18 years of age at the time they committed the crimes, ending a practice used in 19 of the U.S. states.

Such executions are a disproportionate punishment for juveniles, whom society views as categorically less culpable than adult criminals, the court said, and violate the ban on cruel and unusual punishment contained in the Eighth Amendment to the U.S. Constitution.

The 5-to-4 decision throws out the current death sentences of 72 juvenile murderers and bars states in the future from seeking to execute minors for crimes. The court had already outlawed executions for offenders who had committed their crimes while still under the age of 16 in 1988.

Justice Anthony Kennedy, writing for the majority, acknowledged the weight of international opinion against the juvenile death penalty, which rests, he said, "in large part on the understanding that the instability and emotional imbalance of young people may often be a factor in the crime."

“Neither retribution nor deterrence provides adequate justification for imposing the death penalty on juvenile offenders,” he said.

Justices John Paul Stevens, David H. Souter, Ruth Bader Ginsberg and Stephen Breyer joined Kennedy in the March 1 decision.

In a dissent that highlighted the federal versus states’ rights aspects of the Constitution, Justice Antonin Scalia chastised his colleagues for taking power from the states.

“The court says in so many words that what our people’s laws say about the issue does not, in the last analysis, matter: ‘In the end our own judgment will be brought to bear on the question of the acceptability of the death penalty,’” he wrote. “The court thus proclaims itself sole arbiter of our nation’s moral standards.”

Chief Justice William Rehnquist and Justices Sandra Day O’Connor and Clarence Thomas joined Scalia in his dissent.

In his 25-page opinion, Kennedy noted that until now the United States was the only country in the world that still gave official sanction to the juvenile death penalty, where 19 of the world’s 39 executions of youthful offenders have been carried out since 1990. The other countries that carried out such executions were Iran, Nigeria, Pakistan, Saudi Arabia, China, Yemen and the Democratic Republic of Congo.

Using the death penalty against offenders who were under 18 when they committed a crime is banned by the United Nations’ Convention on the Rights of the Child, ratified by 192 countries -- every country in the world except the United States and Somalia.

“The fact that the United States has now ended [execution of juveniles] by this ruling is a huge step toward global abolition for the death penalty for children,” said Amnesty International researcher Rob Freer.

In Atlanta, former President Jimmy Carter said, “This ruling acknowledges the profound inconsistency in prohibiting those under 18 years of age from voting, serving in the military, or buying cigarettes, while allowing them to be sentenced to the ultimate punishment.”

CAPITAL PUNISHMENT IN U.S. HIT 30-YEAR LOW IN 2003

Revised: U.S. Supreme Court bans death penalty for juveniles

The following fact sheet on capital punishment in the United States was compiled from U.S. Department of Justice statistics and Department of State sources.

This fact sheet was originally published on December 1, 2004; this update reflects a March 1, 2005, ruling issued by the U.S. Supreme Court banning the execution of those who were under the age of 18 at the time of their crime.

Following is the fact sheet:

U.S. Department of State
International Information Programs
March 1, 2005

CAPITAL PUNISHMENT IN THE UNITED STATES

Context

Americans tend to cast the debate over capital punishment in terms of its deterrent value or appropriateness as a sanction for certain serious crimes. Overseas, the use of the death penalty in the United States is frequently raised as a human rights issue -- especially when juveniles, the mentally retarded, or the mentally ill are involved.

The latest statistics from the U.S. Department of Justice show a downward trend in death sentences nationwide. In 2003, the latest year for which statistics are available, the number of death sentences imposed hit a 30-year low.

The number of prisoners under sentence of death at year-end 2003 also decreased for the third year in a row.

In 2003, 65 inmates were executed, six fewer than in 2002.

Of those under sentence of death in 2003:

- 1,878 were white
- 1,418 were black
- 29 were American Indian

- 35 were Asian
- 14 were of unspecified race
- 47 were female

Although capital punishment is permitted by the federal government and the U.S. military, international criticism of the death penalty is largely focused on its use by state governments. Consequently, capital punishment in the United States must be understood within the context of American federalism, whereby matters for which the Constitution does not vest responsibility in the federal government are reserved to the states. As a result, states have broad powers to regulate their own general welfare, including enactment and enforcement of criminal laws, public safety and correction. As of 2003, the death penalty was authorized in 38 states, but only 11 of those states executed anyone, two fewer than in 2002.

Even though popular support for the death penalty is currently substantial, its use remains controversial, with support varying by region. Twelve states do not authorize the use of capital punishment, either because of a statutory or a judicial prohibition. Other states have announced moratoria on its use or are considering legislation to abolish it. Jurisdictions without the death penalty are Alaska, Hawaii, Iowa, Maine, Massachusetts, Michigan, Minnesota, North Dakota, Rhode Island, Vermont, West Virginia, Wisconsin, and the District of Columbia.

The Death Penalty and International Law

- The International Covenant on Civil and Political Rights specifically recognizes the right of countries to impose the death penalty for the most serious crimes, carried out pursuant to a final judgment rendered by a competent court and in accordance with appropriate safeguards and observance of due process.
- The United States works assiduously in international fora, including the U.N. Commission on Human Rights and the Organization for Security and Cooperation in Europe (OSCE), against the use of the death penalty without due process, such as for political prisoners detained without fair trial by autocratic governments.

The Death Penalty in U.S. Law

- The U.S. Supreme Court has upheld use of the death penalty for the most serious crimes provided that its use is in accordance with procedural guarantees of the U.S.

Constitution and relevant state constitutions.

- The U.S. judicial system provides an exhaustive system of protections to ensure that the death penalty is not applied in an extra-judicial, summary, or arbitrary manner. All death sentences are automatically reviewed by higher courts in 37 of the 38 states with capital punishment, and all convictions are automatically reviewed in 33 of the 38 states with capital punishment.

The Death Penalty for Crimes Committed by Juveniles

- The United States Supreme Court banned the execution of those who were under the age of 18 at the time of their crime in a ruling issued March 1, 2005.

Capital Punishment and the Mentally Retarded

- Execution of the mentally retarded is banned as a result of a U.S. Supreme Court ruling in June 2002 that execution of mentally retarded criminals constitutes "cruel and unusual" punishment prohibited by the 8th Amendment to the U.S. Constitution. Individuals are considered mentally retarded if they meet the clinical definition of having not only sub-average intellectual functioning, but also significant limitations in adaptive skills, such as communication, self-care, and self-direction, that became manifest before age 18. Controversy continues, however, over how state prison systems are ensuring accurate diagnosis of those on death row.

Capital Punishment and the Mentally Ill

- In 1986 the U.S. Supreme Court prohibited the execution of the mentally insane and required an adversarial process for determining mental competency. Legal definitions and concepts of insanity and competency, however, do not always coincide with medical opinion, and as a result controversy continues.

RICE WELCOMES ANNAN'S COMMITMENT TO U.N. REFORM

Also discusses Lebanon and Sudan during London meeting

Secretary of State Condoleezza Rice welcomed U.N. Secretary-General Kofi Annan's commitment to reforming the United Nations, and said the United States will work with him to strengthen the organization.

Speaking with Annan March 1 in London--where they were attending a meeting on supporting the Palestinian authority--Rice said the United States wants the United Nations "to be a strong organization, an organization that is fit and ready for the challenges of the 21st century."

She added that the Bush administration very much appreciates Annan's "commitment to United Nations reform in all of its aspects, in all of its manifestations."

The secretary said she and Annan also discussed the situation in Lebanon and the need for foreign forces to withdraw, as well as Sudan and the importance of the government in Khartoum taking international humanitarian concerns seriously.

Annan praised the Palestinians for handling the political transition following the death of Yasser Arafat "extremely well and competently," through their elections and the establishment of a new government that will further peace with Israel.

Following is the transcript of their remarks:

March 1, 2005
London, England

SECRETARY GENERAL ANNAN: Morning, ladies and gentlemen...actually it is afternoon. Secretary of State Condi Rice and myself have had a very good discussion. We have covered lots of territory, from UN Reform to Iraq, Iran, Syria, Lebanon, and we touched on North Korea, Cote d'Ivoire, Sudan and Nepal. I think the meeting on the Palestinian issue has also gone extremely well. I'm very pleased that the Prime Minister convened this meeting, which gave everybody an opportunity to sit with the new Palestinian leadership to discuss their needs - how they can be assisted with their reform, economic and social development as well as security. And I think when we look back, the Pales-

tinians have handled the transition extremely well and competently, not only going through the elections but putting together a government that is going to move the process forward. And we hope this meeting will add to the momentum that has been gathering and of course in this afternoon the Quartet would also meet to see how the Quartet can help the process and move the issue forward. Thank you.

SECRETARY RICE: Thank you very much. The Secretary General and I did have a very good talk. We obviously talked about what is going on here at the conference and we will have a Quartet meeting later on today to continue to talk about how the international community can support the process that is underway in this moment of hope. We talked about a wide variety of issues, the events in Lebanon, the need to make certain that Resolution 1559 is adhered to. We had an opportunity to discuss Sudan and the importance of the Sudanese Government taking seriously the concerns and demands of the international community to bring relief to that long suffering population. We also talked a good bit about UN Reform, about the fact that the United States as a founding member of the United Nations wants this to be a strong organization, an organization that is fit and ready for the challenges of the 21st century and we very much appreciate the Secretary General's commitment to United Nations reform in all of its aspects, in all of its manifestations and we will look forward to working with you, Mr. Secretary General, to make that a reality. Thank you very much. Thank you.

SECRETARY GENERAL ANNAN: Thank you.

CONCLUDING WTO DEAL CALLED A TOP PRIORITY OF SECOND BUSH TERM

Annual Trade Policy Agenda submitted to Congress by USTR

The Bush administration's annual trade report to Congress makes a top priority of concluding World Trade Organization (WTO) negotiations during the president's second term, the Office of the U.S. Trade Representative (USTR) says.

A March 1 USTR press release announced submission to Congress of the 2005 Trade Policy Agenda and the 2004

Annual Report of the President on the Trade Agreements Program. The entire document is accessible at <http://www.ustr.gov/>.

A forward to the report by former U.S. Trade Representative Robert Zoellick, who is now deputy secretary of state, says it contains a special report on the importance to the U.S. economy of the WTO, now in its 10th year.

“Without the WTO, other countries could impose higher duties on American exports,” Zoellick wrote. “And without the WTO, the United States would not have the leverage it needs to address trade barriers that disadvantage American farmers, ranchers, workers, and businesses, including discriminatory tax policies and customs procedures, subsidies, unjustified antidumping actions and weak intellectual property protections.”

In 2005 members of Congress have the opportunity, available only once every five years, to require a vote on whether to withdraw the United States from WTO membership.

Zoellick also said the administration continues to seek congressional approval of trade agreements reached in 2004 with Bahrain and with Central America and the Dominican Republic.

Following is the text of the press release:

Bush Administration Submits Annual Trade Report To Congress

WASHINGTON -- The Bush Administration today submitted to Congress the 2005 Trade Policy Agenda and the 2004 Annual Report of the President on the Trade Agreements Program. The Agenda outlines the Administration's trade initiatives for the year and reviews its work and accomplishments in 2004. The report also contains the Congressionally mandated 5-year report on the World Trade Organization (WTO).

“In 2004, the Bush Administration concluded and Congress approved free trade agreements (FTAs) with Australia and Morocco. The United States completed negotiations on FTAs with Bahrain and five countries of Central America and the Dominican Republic; the Administration looks forward to Congressional approval of these FTAs so they can be implemented promptly,” wrote former U.S. Trade Representative Robert B. Zoellick in the February 18 overview of the Agenda.

“At the beginning of the Bush Administration, the United States had FTAs with three countries, one of which dated back to 1985. Thanks to Congressional approval of Trade Promotion Authority in 2002, the United States now has completed negotiations with 12 countries, and is currently negotiating with 12 more. Taken together, these 24 current and future trading partners constitute America's third largest export market, with \$78 billion in U.S. exports in 2004, and the world's sixth largest economy,” Zoellick wrote. “These FTAs have advanced America's interests by opening new markets for U.S. products and services, increasing protection of intellectual property, streamlining customs procedures, and strengthening labor and environmental laws and their enforcement. Bilateral negotiations also serve as a vehicle to resolve important disputes that might otherwise never have been resolved without such leverage. All of these achievements translate into free and fair trade, leveling the playing field for American workers and farmers who export their goods abroad, and lowering costs for goods American consumers buy every day.”

“In 2005, the United States is seeking to expand on this record of accomplishment, with an active and comprehensive trade liberalizing agenda. While working to further open markets, the Administration will continue to focus on monitoring and enforcing existing U.S. trade agreements and trade laws, building the capacity of developing countries to participate in the global economy, and making the case for free trade to the American public,” wrote Zoellick.

“In his first term, President Bush made multilateral trade negotiations a priority in expanding the global economy, particularly in opening new markets for America's manufactured goods, farm products, and service providers,” wrote Zoellick.

“In the President's second term, concluding the Doha agenda of multilateral trade negotiations will be a top priority for the Administration. This year's annual report highlights the results of the Administration's ongoing efforts to open new overseas markets, level the playing field for American exporters, and vigorously enforce the trade commitments other countries make to the United States. In addition, on the tenth anniversary of the World Trade Organization (WTO), the report takes a special look at the benefits of U.S. membership in the multilateral trading system,” wrote Zoellick. “Without the WTO, other countries could impose higher duties on American exports. And without the WTO, the United States would not have the leverage it needs to address trade barriers

that disadvantage American farmers, ranchers, workers, and businesses, including discriminatory tax policies and customs procedures, subsidies, unjustified antidumping actions and weak intellectual property protections.”

The full overview of the Agenda is contained in the report. The 2005 Trade Policy Agenda and the 2004 Annual Report is prepared according to the guidelines established under the Trade Act of 1974, as amended. Copies of the report are available at <http://www.ustr.gov/>. For information on bound copies for credentialed media, call 202-395-3230.

Please Note: Most texts and transcript mentioned in the U.S. Mission Daily Bulletin are available via our homepage: **www.usmission.ch**

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